

RAILROAD COMMISSION OF TEXAS

GAS SERVICES DIVISION

GAS UTILITIES INFORMATION BULLETIN

No. 706



RAILROAD COMMISSION OF TEXAS

Michael L. Williams, Chairman
Charles R. Matthews, Commissioner
Tony Garza, Commissioner

Steve Pitner
Director
Gas Services Division

August 26, 2002

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SECTION 1
NEW APPEALS AND APPLICATIONS FILED

DOCKET NO.	--	9318
CAPTION	--	Application of TXU Gas Distribution and TXU Lone Star Pipeline. Abandonment of the service and facilities known as Line 8 in Robertson County, TX
DATE FILED	--	07/31/2002
FILED BY	--	Charles R. Yarbrough
EXAMINER	--	Mimi Winetroub
DOCKET NO.	--	9319
CAPTION	--	Inquiry into the failure of Texas Natural Gas Company to comply with safety standards.
DATE FILED	--	08/27/2002
FILED BY	--	Commission's Own Motion
EXAMINER	--	Elaine Moore
DOCKET NO.	--	9320
CAPTION	--	Inquiry into the failure of San Antonio Public Ser. Board to comply with safety standards.
DATE FILED	--	08/27/2002
FILED BY	--	Commission's Own Motion
EXAMINER	--	Barbara Epstein
DOCKET NO.	--	9321
CAPTION	--	Inquiry into the failure of Reliant Energy Entex to comply with safety standards.
DATE FILED	--	08/27/2002
FILED BY	--	Commission's Own Motion
EXAMINER	--	Susan German
DOCKET NO.	--	9322
CAPTION	--	Application of Duke Energy Corporation for review of the purchase of Moss Bluff HUB Partners LP.
DATE FILED	--	07/29/2002
FILED BY	--	Richard A. Patton
EXAMINER	--	Bill Geise
DOCKET NO.	--	9323
CAPTION	--	Aquila Storage & Transportation, L.P.'s application pursuant to Section 311 of the Natural Gas Policy Act for review of reasonableness of rates.
DATE FILED	--	08/26/2002
FILED BY	--	Andrew M. Taylor
EXAMINER	--	Mimi Winetroub
DOCKET NO.	--	9324
CAPTION	--	Application of Tejas Gas Operating, LLC for review of the transfer of gas utility assets to affiliates.
DATE FILED	--	08/26/2002
FILED BY	--	Lee Baskin
EXAMINER	--	Bill Geise
DOCKET NO.	--	9325
CAPTION	--	Application of Kinder Morgan Tejas Pipeline, L.P. for review of the merger of Tejas Gas Services, LLC into Kinder Morgan Tejas Pipeline, L. P.
DATE FILED	--	08/23/2002
FILED BY	--	Lee Baskin
EXAMINER	--	Bill Geise

DOCKET NO.	--	9326
CAPTION	--	Application of Kinder Morgan Tejas Pipeline, L.P. for review of the merger of Tejas North Pipeline Partnership into Kinder Morgan Tejas Pipeline, L. P.
DATE FILED	--	08/23/2002
FILED BY	--	Lee Baskin
EXAMINER	--	Bill Geise
DOCKET NO.	--	9327
CAPTION	--	Application of Kinder Morgan Tejas Pipeline, L.P. for review of the merger of Tejas South Pipeline Partnership into Kinder Morgan Tejas Pipeline, L. P.
DATE FILED	--	08/23/2002
FILED BY	--	Lee Baskin
EXAMINER	--	Bill Geise
DOCKET NO.	--	9328
CAPTION	--	Application of Kinder Morgan Tejas Pipeline, L.P. for review of the merger of Spindletop Gas Distribution System into Kinder Morgan Tejas Pipeline, L. P.
DATE FILED	--	08/23/2002
FILED BY	--	Lee Baskin
EXAMINER	--	Bill Geise
DOCKET NO.	--	9329
CAPTION	--	Application of Kinder Morgan Tejas Pipeline, L.P. for review of the merger of KM Texas Pipeline, L.P. into Kinder Morgan Tejas Pipeline, L. P.
DATE FILED	--	08/23/2002
FILED BY	--	Lee Baskin
EXAMINER	--	Bill Geise
DOCKET NO.	--	9330
CAPTION	--	The Railroad Commission will consider adopting new regulations for implementation of SB310, Public Education and Liaison.
DATE FILED	--	08/28/2002
FILED BY	--	Commission's Own Motion
EXAMINER	--	Mary McDaniel
DOCKET NO.	--	9331
CAPTION	--	Inquiry into the failure of Shamrock Apartments to comply with safety standards
DATE FILED	--	08/28/2002
FILED BY	--	Commission's Own Motion
EXAMINER	--	Barbara Epstein
DOCKET NO.	--	9332
CAPTION	--	Inquiry into the failure of Church Street Apartments to comply with safety standards.
DATE FILED	--	08/28/2002
FILED BY	--	Commission's Own Motion
EXAMINER	--	Susan German
DOCKET NO.	--	9333
CAPTION	--	Failure of Sterling Expl. & Prod. Co., LLC to comply with safety standards.
DATE FILED	--	08/29/2002
FILED BY	--	Commission's Own Motion
EXAMINER	--	Susan German

DOCKET NO. -- 9334
CAPTION -- The Commission will consider amendments to Section 7.310-System of Account as it pertains to the transition from the NARUC accounting system to the FERC accounting system.
DATE FILED -- 08/29/2002
FILED BY -- Commission's Own Motion
EXAMINER -- Ed Abrahamson

CASES REFERRED TO SOAH

DOCKET NO. -- 9291
CAPTION -- Request of Texas General Land Office for immediate action to stay abandonment and for establishment of transportation rate on Panther Pipeline, LTD.
DATE REFERRED TO SOAH -- 06/28/2002
SOAH DOCKET NO. -- 455-02-3446
SOAH ALJ -- Wendy Harvel

DOCKET NO. -- 9313
CAPTION -- Petition for review of TXU Gas Distribution from the actions of the City of Arlington, et al.
DATE REFERRED TO SOAH -- 08/21/2002
SOAH DOCKET NO. -- 455-02-4058
SOAH ALJ -- Kerry Sullivan

SECTION 2

APPEALS AND APPLICATIONS SET FOR HEARING OR PREHEARING CONFERENCE

None at this time.

SECTION 3

STATUS OF PENDING CASES

DOCKET NO. -- 9280
CAPTION -- General inquiry into a revised sales tariff filed by Southern Union Gas Company for customers in the environs of the Rio Grande Valley Service area.
DATE COMPLETED -- 08/8/2002
STATUS -- Administratively Approved
EXAMINER -- Zuleida Cruz

DOCKET NO. -- 9282
CAPTION -- General inquiry into rates filed by Southern Union Gas Company revising the Cost of Gas Clause in the Eagle Pass Service Area.
DATE COMPLETED -- 08/8/2002
STATUS -- Administratively Approved
EXAMINER -- Zuleida Cruz

DOCKET NO. -- 9318
CAPTION -- Application of TXU Gas Distribution & TXU Lone Star Pipeline for Abandonment of the Service and Facilities Known as Line 8, Robertson County, TX
DATE COMPLETED -- 08/23/2002
STATUS -- Administratively Approved
EXAMINER -- Mimi Winetroub

SECTION 4
NOTICES OF DISMISSAL

DOCKET NO. -- 9304
CAPTION -- Statement of Intent of TXU Lone Star Pipeline to Establish an Integrity and Safety Assessment for Recovery of Pipeline Integrity Assessment and Management Expenses and Class Location Changes.
DATE DISMISSED -- 08/20/2002

SECTION 5
ORDERS OF THE COMMISSION

**TXU GAS DISTRIBUTION
TRANSMISSION 12 MONTH
RECONCILIATION FOR THE
PERIOD ENDING JUNE 30, 2001**

‘
‘ **GAS UTILITIES DOCKET**
‘ **NO. 9246**
‘

CONSENT ORDER

Notice of Open Meeting to consider this order was duly posted with the Secretary of State within the time period provided by law pursuant to Texas Government Code Ann., Chapter 551, *et seq.* (Vernon 1994 & Supp. 2002). The Railroad Commission of Texas (Commission) adopts the following findings of fact and conclusions of law and orders as follows:

FINDINGS OF FACT

1. On August 31, 2001, TXU Gas Distribution-Transmission, a division of TXU Gas Company, (TXU) filed its Annual City Gate Gas Cost Reconciliation Statement for the twelve months ended June 30, 2001, in compliance with the Final Order of the Commission in Gas Utilities Docket No. 8996.
2. The Commission docketed this matter as Gas Utilities Docket No. 9246 (“GUD No. 9246”).
3. Numerous parties filed Motions to Intervene and all Motions were granted. The State of Texas and Staff for the Commission intervened. The Cities of Abilene, Allen, Arlington, Ballinger, Bedford, Bronte, Cleburne, Comanche, Dallas, Farmers Branch, Gainesville, Garland, Haltom, Hurt, Irving, Lewisville, Malakoff, Paducah, Pantego, Paris, Petrolia, Plano, Poynor, Rockwall, Robert Lee, Robinson, Sulphur Springs, Vernon, Waco, Walnut Springs, Waxahachie, and the Town of Highland Park intervened collectively as the “Steering Committee of Cities.” The Cities of Buffalo, Centerville, Corsicana, Denton, Farmersville, Fredericksburg, Gatesville, Georgetown, Greenville, Groesbeck, Haskell, Longview, Manor, Pflugerville, Riesel, Roby, Somerville, Taylor, and Wellington intervened collectively as the “Alliance of Texas Municipalities.” All of these parties are collectively referred to hereafter as “Intervenors.”
4. On February 14, 2002, with agreement of all Parties, TXU filed its Revised Annual City Gate Gas Cost Reconciliation Statement for the twelve months ended June 30, 2001, in compliance with the Final Order of the Commission in Gas Utilities Docket No. 8996.
5. The Revised Reconciliation Statement indicates that the ending balance on June 30, 2001, for TXU’s Total City Gate Gas Cost Under Recovered was \$12,597,639. During the twelve-month reconciliation period, monthly cumulative balances ranged from \$12,597,639 to \$189,799,194, with an average monthly balance over the entire period of \$60,821,719. Pursuant to TXU’s tariff on file with the Commission, interest accrued monthly on the Under Recovered amounts and totaled \$5,992,453. The net amount to be recovered, therefore, is \$18,590,092, and the reconciliation factor is 0.1565 per Mcf.
6. For settlement purposes only and with regard to the annual correction factor at issue in GUD No. 9246 only, the Parties agreed that TXU will be permitted to exclude the revenues it received in July 2000 and August 2000 that were attributable to the two correction accounts that were unrecovered at the end of June 2000 under the old monthly GCA methodology. TXU will be permitted to exclude the revenues it received in July 2000 that were attributable to the unbilled revenues for gas that was purchased and delivered in June 2000. TXU stipulates that these are one-time transition adjustments to account for the change to a new Rate Schedule 56 in GUD No. 8996. TXU reserves its right to pursue other transition adjustments as may be appropriate in connection with GUD No. 9233 to match expenses and revenues, and Intervenors reserve the right to review and object to any further transition adjustments claimed by TXU in GUD No. 9233. TXU will not contend in GUD No. 9233 that the prudence issues involving meter coding are barred as being res judicata.
7. On May 23, 2002, TXU filed with the Commission a *Term Sheet for Settlement of Docket 9246* (the “Settlement Terms” to resolve all outstanding issues in this docket, with the exception of rate case expenses. All Parties have signed the Settlement Terms, and signatures for all Parties are on file with the Commission.

8. The Settlement Terms provided that all prudence and reasonableness issues associated with gas cost expense during the months of July-October 2000 are reserved for litigation in GUD No. 9233. This includes, without limitation, prudence issues related to (1) the Dallas/Carrollton and Dallas/Garland meter coding errors and (2) the use or appropriateness of the Arthur Andersen Report.
9. Although the Parties subsequently filed a proposed Consent Order wherein they agreed not to oppose the recovery of reasonable and necessary rate case expenses (including attorneys' fees, expert consulting fees, and other related expenses), the Parties agree that all issues related to rate case expenses be severed to GUD No. 9233 and resolved in that docket.
10. TXU and Intervenors have stipulated to the Findings of Fact above.
11. The Settlement Terms as agreed by TXU and Intervenors constitute a reasonable resolution of the issues in this docket and are in the public interest.

CONCLUSIONS OF LAW

1. TXU is a gas utility as that term is defined in TEX. UTIL CODE ANN. §101.003(7) (Vernon Supp. 2002).
2. The Commission has jurisdiction and authority over this matter pursuant to TEX. UTIL CODE ANN. §§ 102.001, 104.001 (Vernon 1998 & Supp. 2002).
3. Notice of this proceeding was provided in accordance with 16 TEX. ADMIN. CODE §1.43 (West 2002).
4. The Commission has authority to dispose of this matter, which has been settled by agreement, without hearing by entering a consent order pursuant to TEX. GOV'T CODE ANN. §2001.056 (Vernon 2000).

IT IS THEREFORE ORDERED THAT all issues related to rate case expenses are hereby severed in GUD No. 9233 for consideration in that case. **IT IS FURTHER ORDERED THAT** the agreement of the parties as reflected in Findings of Fact Nos. 5 & 6 herein is in the public interest and is hereby approved; provided, however, that nothing in this Order shall be considered precedent for any other proceeding, except with respect to GUD No. 9246.

IT IS FURTHER ORDERED THAT this docket is hereby **DISMISSED**. **IT IS FURTHER ORDERED THAT** all other motions, proposed Findings of Fact and Conclusions of Law, and any other requests for general or specific relief, if not specifically adopted herein, are **DENIED**.

SIGNED this the 6th day of August, 2002, at Austin, Texas.

RAILROAD COMMISSION OF TEXAS

/s/ **MICHAEL L. WILLIAMS**
CHAIRMAN

/s/ **CHARLES R. MATTHEWS**
COMMISSIONER

/s/ **TONY GARZA**
COMMISSIONER

ATTEST:

/s/ Kim Williamson

SECRETARY

APPROVED AS TO FORM AND SUBSTANCE:

By: /s/ Counsel for TXU Gas Distribution - Transmission

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APPEALS BY TXU GAS DISTRIBUTION OF ,
ORDINANCES ADOPTED BY THE CITIES OF ,
LEANDER, GREENVILLE, BURNET, , GAS UTILITIES DOCKET NOS. 9267-9270,
CORNICANA, MANOR, BERTRAM, , 9278-9279 & 9284-9288
GATESVILLE, LONGVIEW & DENTON ,
"

ORDER GRANTING APPEAL OF INTERIM RULING

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551 (Vernon 1994 and Vernon Supp. 2002).

TXU Gas Distribution (TXU) appealed to the Commission nine Notice Ordinances and two Rate Filing Package (RFP) Ordinances alleging that the ordinances conflict with the Gas Utility Regulatory Act, modify the statutory criteria and timeline to institute rate increases, improperly discriminate in favor of municipal utilities, and create an unreasonable burden on ratepayers. The Cities of Leander, Greenville, Burnet, Corsicana, Manor, Bertram, Gatesville, Longview & Denton (Cities) filed their Motion to Dismiss, seeking dismissal of these appeals alleging that the Commission lacks jurisdiction over the appeals because they are not ratemaking ordinances. On February 28, 2002, and April 4, 2002, the eleven Commission dockets were referred to the State Office of Administrative Hearings (SOAH) for hearings; the dockets were subsequently assigned SOAH Docket Nos. 455-02-2065, 455-02-2066, 455-02-2067, 455-02-2068, 455-02-2069, 455-02-2070, 455-02-2465, 455-02-2466, 455-02-2467, 455-02-2468 & 455-02-2469 (Lead Consolidated SOAH Docket No. 455-02-2065).

On May 24, 2002, the SOAH Administrative Law Judge (ALJ) issued Order No. 7, denying the Motion to Dismiss filed by the Cities. The Cities filed an appeal of this interim ruling, asking that the Commission reverse the Administrative Law Judge and grant the Motion to Dismiss. TXU timely filed a Response to the Appeal. The Texas Municipal League and the Texas City Attorneys Association filed an Amici Curiae Brief in support of the Cities' appeal.

The Commission finds that it lacks jurisdiction under the Gas Utility Regulatory Act to hear appeals of the municipal ordinances at issue in these dockets as the ordinances are not within the scope of the Commission's appellate jurisdiction as established in Chapter 103 of the Texas Utilities Code. Given this finding, the Commission requests that the SOAH ALJ dismiss the SOAH dockets and return these matters to the Commission for disposition in accordance with Commission Rule 1.126, which allows dismissal, with or without prejudice, of any proceeding under such conditions and for such reasons as are found to be just and reasonable, including lack of jurisdiction. TEX. ADMIN. CODE § 1.126(5) (West 2002).

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS that the appeal of Order No. 7 entered by the State Office of Administrative Hearings Administrative Law Judge is hereby **GRANTED**. **IT IS FURTHER ORDERED** that, upon dismissal of the SOAH dockets and return of these matters to the Commission, the Commission's General Counsel is hereby instructed to dismiss Gas Utilities Docket Nos. 9267-9270, 9278-9279 & 9284-9288.

SIGNED this 13th day of August, 2002.

RAILROAD COMMISSION OF TEXAS
/s/ **MICHAEL L. WILLIAMS**
CHAIRMAN

(not signed) **CHARLES R. MATTHEWS**
COMMISSIONER

/s/ **TONY GARZA**
COMMISSIONER

ATTEST:
Kim Williamson
SECRETARY

STATEMENT OF INTENT
OF TXU LONE STAR PIPELINE
TO ESTABLISH RATES

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GAS UTILITIES DOCKET NO. 9292

ORDER DENYING MOTION FOR REHEARING

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551, *et seq.* (Vernon 1994 & Supp. 2002).

On June 25, 2002, the Railroad Commission of Texas (Commission) signed its Final Order in this docket. On June 28, 2000, the Commission mailed copies of the Final Order to all parties. Pursuant to TEX. GOV'T CODE ANN. § 2001.142(c) (Vernon 2000), the parties are presumed to have been notified of the Commission Order on July 1, 2002.

On July 22, 2002, TXU Lone Star Pipeline (Applicant) timely filed a Motion for Rehearing. On July 30, 2002, the Association of TXU Municipalities timely filed a Reply to Motion for Rehearing. On July 31, 2002, Spencer Station Generating Company timely filed a Reply to Motion for Rehearing. The Commission finds that the Motion for Rehearing does not raise any new meritorious issues of fact or law that require rehearing.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS THAT the Complainant's Motion for Rehearing is **DENIED**.

SIGNED this 13th day of August, 2002.

RAILROAD COMMISSION OF TEXAS

/s/ **CHAIRMAN MICHAEL L. WILLIAMS**

/s/ **COMMISSIONER CHARLES R. MATTHEWS**

(not signed) **COMMISSIONER TONY GARZA**

ATTEST:

/s/ **Kim Williamson**
SECRETARY

**APPLICATION OF SAN JACINTO GAS
TRANSMISSION COMPANY JV PURSUANT
TO SECTION 311 OF THE NATURAL GAS
POLICY ACT FOR REVIEW OF THE
REASONABLENESS OF A TRANSPORTATION
RATE**

GAS UTILITIES DOCKET NO. 9301

ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time period provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551, *et seq.* (Vernon 1994 and Supp. 2002). The Railroad Commission of Texas adopts the following findings of fact, conclusions of law, and orders as follows:

FINDINGS OF FACT

1. San Jacinto Gas Transmission Company JV (Applicant) owns and operates an intrastate natural gas pipeline facility within the State of Texas.
2. Applicant transports gas on behalf of others pursuant to §311(a)(2) of the Natural Gas Policy Act of 1978, 15 U.S.C. §3371, *et seq.*
3. On May 1, 2002, Applicant filed with the Railroad Commission of Texas (Commission) an application for review of the reasonableness of a transportation rate.
4. On May 6, 2002, Applicant filed direct testimony and exhibits with the Commission supporting the application.
5. On June 18, 2002 and July 24, 2002, Applicant filed supplemental direct testimony and exhibits with the Commission supporting the application.
6. Applicant does not seek to change or modify any existing intrastate rates.
7. Due notice of this proceeding was served on all persons for whom Applicant performs §311(a)(2) transportation and storage services.
8. This docket was processed informally without an evidentiary hearing. No motion to intervene or statement of protest was filed.
9. Applicant has shown that a rate of \$0.10 per MMBtu for providing natural gas transportation service is just and reasonable, fair and equitable, and not in excess of cost-based rates.

CONCLUSIONS OF LAW

Applicant is an intrastate "gas utility" pursuant to TEX. UTIL. CODE §§101.003, 121.001 (Vernon Supp. 2002).

The application is properly before the Commission pursuant to 15 U.S.C. §3371, *et seq.*, and TEX. UTIL. CODE §121.151 (Vernon 1998).

A transportation rate equal to those described in Finding of Fact No. 9 is just and reasonable, fair and equitable, and not in excess of cost-based rates.

THE RAILROAD COMMISSION OF TEXAS hereby finds that a rate of \$0.10 per MMBtu for transportation service by San Jacinto Gas Transmission Company JV is just and reasonable, fair and equitable, and not in excess of cost-based rates.

IT IS HEREBY ORDERED that San Jacinto Gas Transmission Company JV shall comply with all applicable curtailment orders of the Commission.

IT IS FURTHER ORDERED that all proposed findings of fact and conclusions of law not specifically adopted herein are **DENIED**.

SIGNED this 13th day of August, 2002.

RAILROAD COMMISSION OF TEXAS

/s/ CHAIRMAN MICHAEL L. WILLIAMS

/s/ COMMISSIONER CHARLES R. MATTHEWS

/s/ COMMISSIONER TONY GARZA

ATTEST:

/s/ Kim Williamson
Secretary

STATEMENT OF INTENT OF TXU LONE
STAR PIPELINE TO ESTABLISH AN
INTEGRITY AND SAFETY ASSESSMENT
FOR RECOVERY OF PIPELINE
INTEGRITY ASSESSMENT AND
MANAGEMENT EXPENSES AND CLASS
LOCATION CHANGES

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GAS UTILITIES DOCKET NO. 9304

ORDER OF DISMISSAL

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551 (Vernon 1994 and Vernon Supp.2002).

On May 8, 2002, TXU Lone Star Pipeline (TXU LSP) filed with the Railroad Commission of Texas (Commission), pursuant to TEX. UTIL. CODE ANN. §104.102 (Vernon 1998), a statement of intent to establish an assessment to track and recover the costs of implementing its Pipeline Integrity Assessment and Management Plan, required by Commission rule (TEX. ADMIN. CODE §8.101), and the costs of system modifications required by class location changes under federal pipeline safety regulations adopted by the Commission (49 CFR 192).

TXU LSP proposes to apply the assessment, at the initial rate of 2.05 cents per MMBtu, to all volumes of gas transported for 1) TXU LSP's customers with gas-consuming equipment at an end-use location physically attached to TXU LSP's pipeline system or to the system of a local distribution company physically attached to TXU LSP's pipeline system; 2) entities selling gas to such customers; and 3) local distribution companies. TXU LSP proposes to charge the fee in addition to any other applicable rates currently being charged to such customers; to annually report actual revenues from the assessment and to adjust the assessment as necessary to ensure that it adequately recovers costs without over-recovering them; and to provide the projects and related projected costs for the next annual period. The assessment would take effect on June 12, 2002, and would remain in place, as adjusted annually, until June 30, 2012.

TXU LSP's requested effective date of July 1, 2002, was suspended for 150 days, pursuant to TEX. UTIL. CODE ANN. §104.107(a)(2) (Vernon 1998), by Commission order signed June 25, 2002. The case was referred to the State Office of Administrative Hearings (SOAH) on June 28, 2002, and was assigned SOAH Docket No. 455-02-3447.

In response to the Statement of Intent, three intervenors filed motions to dismiss. The Association of TXU Municipalities (ATM) filed a motion to dismiss on June 24, 2002. Spencer Station Generating Company L.P. (Spencer) filed a motion to dismiss, or in the alternative for an order to show cause, on July 12, 2002. Another group, the Cities of Arlington, Colleyville, Dallas, Lewisville, Malakoff, Plano, Vernon, Waxahachie, Carrollton, Hutto, Snyder, Alvarado, Benbrook, Brownwood, Burkburnett, Burleson, Clyde, College Station, Denison, Duncanville, Farmers Branch, Flower Mound, Gainesville, Heath, Highland Park, Kerrville, Little Elm, McKinney, Robinson, Rowlett, San Angelo, Sweetwater, The Colony, and Walnut Springs (Cities), filed a motion to dismiss on July 12, 2002.

TXU LSP filed a response to all of the motions to dismiss on July 22, 2002, and two of the intervenors, Spencer and ATM, each filed Replies to TXU LSP's response on July 26, 2002. The Staff of the Commission filed a motion to intervene on July 26, 2002. On August 2, 2002, TXU LSP and Intervenors filed a list of threshold and other issues to be considered by the Commission in conjunction with consideration of issuance of a Preliminary Order in this docket. On August 9, 2002, TXU LSP and Intervenors filed their individual Briefs on the Proposed Issues List.

The Commission finds that it cannot establish the incremental rate requested by TXU LSP without establishing the utility's reasonable and necessary operating expenses and appropriate rate of return on its invested capital. There is no statutory authority granting the Commission the power to set an incremental rate for the sole purpose of allowing additional marginal revenue to the utility designed to recover additional rates of return on capital and additional operating expenses at the margin. The establishment of the incremental rate proposed by TXU LSP is outside the statutory scheme of the Texas Utilities Code.

The Commission finds that it lacks the statutory authority to establish rates to recover the costs of TXU LSP's proposed assessment. The Commission finds that it would serve no legitimate public purpose to conduct a hearing in this docket because, as a

matter of law, the Commission cannot approve the relief requested. TEX. UTIL. CODE ANN. §§101.001–105.051 (Vernon 1998 and Vernon Supp. 2002).

The commission may dismiss, with or without prejudice, any proceeding under such conditions and for such reasons as are found to be just and reasonable, including, if necessary, in the interest of justice, TEX. ADMIN. CODE §1.126(6) (West 2002).

Given this finding, the Commission requests that the SOAH ALJ dismiss the SOAH docket and return the matter to the Commission for disposition in accordance with Commission Rule §1.126, which allows dismissal, with or without prejudice, of any proceeding under such conditions and for such reasons as are found to be just and reasonable, including lack of jurisdiction. TEX. ADMIN. CODE §1.126(5) (West 2002).

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS that the motions to dismiss filed in this docket are hereby **GRANTED**.

IT IS FURTHER ORDERED that, upon dismissal of the SOAH docket and return of this matter to the Commission, the Commission's General Counsel is hereby instructed to dismiss Gas Utilities Docket No. 9304.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS that the statement of intent filed by TXU LSP is hereby **DISMISSED** without prejudice.

SIGNED this 20th day of August, 2002.

RAILROAD COMMISSION OF TEXAS

/s/ **MICHAEL L. WILLIAMS**
CHAIRMAN

/s/ **CHARLES R. MATTHEWS**
Commissioner

/s/ **Tony Garza**
COMMISSIONER

ATTEST:

/s/ **Kim Williamson**
SECRETARY

**STATEMENT OF INTENT OF GREENLIGHT GAS
TO CHANGE ITS GAS TRANSPORTATION RATE
FOR SERVICE TO THE FOLLOWING CITIES
AND NEARBY UNINCORPORATED AREAS:
CLARENDON, DODSON, DOZIER, ESTELLINE,
HEDLEY, LAKEVIEW, LELIA LAKE, LUTIE,
MEMPHIS, NEWLIN, PADUCAH,
SAMNORWOOD AND WELLINGTON**

GAS UTILITIES DOCKET NO. 9310

SUSPENSION ORDER

Notice of Open Meeting to consider this Order was duly posted with the Secretary of State within the time provided by law pursuant to TEX. GOV'T CODE ANN. Chapter 551 (Vernon 1994 and Vernon Supp.2002).

On June 12, 2002, Greenlight Gas (Greenlight) filed with the Railroad Commission of Texas (Commission) a statement of intent to change its gas transportation rate to certain cities and nearby unincorporated areas, pursuant to TEX. UTIL. CODE ANN. § 104.102 (Vernon 1998). Greenlight originally proposed an effective date of July 22, 2002, but subsequently revised its proposed effective date to August 21, 2002.

The Commission has the authority to suspend the proposed rates for a period of one hundred fifty (150) days from the date on which the rates would otherwise become effective, under TEX. UTIL. CODE ANN. § 104.107(a)(2) (Vernon Supp. 2002). The Commission requires further time in order to consider the propriety of the proposed rate change. A suspension order is necessary to extend the implementation of the proposed rate for a period of one hundred fifty (150) days from the date on which the rates would otherwise become effective.

IT IS THEREFORE ORDERED BY THE RAILROAD COMMISSION OF TEXAS that the rates proposed in Greenlight's statement of intent are hereby **SUSPENDED** for a period of one hundred fifty (150) days from the date the rates would otherwise go into effect.

SIGNED this 20th day of August, 2002.

RAILROAD COMMISSION OF TEXAS

**/s/ MICHAEL L. WILLIAMS
CHAIRMAN**

**/s/ CHARLES R. MATTHEWS
COMMISSIONER**

**/s/ TONY GARZA
COMMISSIONER**

ATTEST:

**/s/ Kim Williamson
SECRETARY**

SECTION 6
MISCELLANEOUS

STEVE PITNER, GAS SERVICES DIVISION DIRECTOR

1. OFFICE OF THE DIRECTOR

A. Publications

1. Texas Utilities Code Titles 3 and 4. Special Rules of Practice and Procedure and Substantive Rules - \$15.00
2. a. Annual Report for Fiscal Year 2001 – Now available via the Commission’s website at:
<http://www.rrc.state.tx.us/divisions/gs/tablecontents01.html>
 - a. Annual Report for Fiscal Year 2000 - \$17.00 (includes statistical data for 1999)
 - b. Annual Report for Fiscal Year 1999 - \$9.00 (includes statistical data for 1998)
 - c. Annual Report for Fiscal Year 1998 - \$7.00 (includes statistical data for 1997)
3. **2002 Pipeline Safety Rules - \$13.00, includes: 49 CFR 191 & 192 and 16 TAC Sections 7.70-7.74 (gas) 49 CFR 193 (LNG); 49 CFR 195 and 16 TAC Sections 7.80-7.87 (hazardous liquids); 49 CFR 40 and 199 (drug testing).**
4. Distribution and/or Gas Transmission Review forms for Adequacy of Operation, Maintenance and Emergency Manual - To obtain a copy of review forms at no charge, send a request with a self addressed envelope (10" x 13" preferably) with \$0.98 postage.
5. Six MCF Monthly Residential Gas Bill Analysis for Twenty-five Texas Cities - \$2.00 – Now available via the Commission’s website at: <http://www.rrc.state.tx.us/divisions/gs/rap/sixmcf.html>

Anyone who wishes to obtain a copy of any of the publications or maps listed in Section A should contact the Gas Services Division, P. O. Box 12967, Austin, Texas 78711-2967, (512) 463-7167.

B. Interest Rate on Customer Deposits

We have been advised by the Public Utility Commission that the interest rate to be applied to customer deposits in calendar year 2002 is 6.00%. All gas utilities should use this rate.

2. PIPELINE SAFETY SECTION

- A. Austin Headquarters - William B. Travis Building
1701 North Congress, (78701)
PO Box 12967
Austin, Texas 78711-2967 Telephone (512) 463-7058

Mary L. McDaniel, P.E., Assistant Director
William (Bill) Dase, Jr., P.E., Engineer
Terry Pardo, P.E., Engineer
K. David Born, Field Operations Manager
Lee Thying, P.E., Engineer
Maurice Curd, Program Administrator

Amarillo Region 1 - 7102 IH-40 West, Bldg. C., Amarillo, Texas 79106 Telephone (806) 468-7486

Alan Mann, Engineering Specialist

Midland Region 2 - Petroleum Building, 214 West Texas, Suite 803, Midland, Texas 79701 Telephone (915) 570-5884

Glenn Taylor, Area Supervisor (Midland/Amarillo)

Larry Felio, P.E., Engineer

Keith Smith, Engineering Specialist

Tim Murray, Engineering Specialist (Abilene)

Kilgore Region 3 - 619 Henderson Boulevard, Kilgore, Texas 75662 Telephone (903) 984-8581

Bob Oldham, Engineering Specialist

James Alexander, Engineering Specialist

Jerry Hill, Engineering Specialist

Austin Region 4 - 1701 North Congress, P. O. Box 12967, Austin, Texas 78711 Telephone (512) 463-7050

Kendall Smith, Area Supervisor

Johnny Burgess, Engineering Specialist

Mark Arguelles, Program Administrator

Houston Region 5 -1706 Seamist Drive, Ste 501, Houston, Texas 77008-3135 Telephone (713) 869-8425

Danny Nichols, Area Supervisor

Jerry Hoff, Engineering Specialist

Jim Arnold, Engineering Specialist

Randy Vaughn, Engineering Specialist

Gregory Johnson, Engineering Specialist

Frank Henderson, Engineering Specialist

John Jewett, Engineering Assistant

Dallas Region 6 -1546 Rowlett Rd., Suite 107, Garland, Texas 75043 Telephone (972) 240-5757

Jody Kerl, P.E., Area Supervisor (Dallas/Kilgore)

M. Kathryn Williams-Guzman, Engineering Specialist

San Sein, Engineering Specialist

Terry Sullivan, Engineering Assistant

Corpus Christi Region 7 -10320 IH-37, P.O. Box 10307, Corpus Christi, Texas 78460-0307 Telephone (361) 242-3117

Don Gault, Area Supervisor

Steven Rios, Engineering Specialist

Jesse Cantu, Jr., Engineering Specialist

Ronda Lauderman, Engineering Assistant

B. Monthly Summary (June)

No. of distribution safety evaluations – 70

No. of transmission safety evaluations - 30

No. of liquid safety evaluations - 8

No. of leak/calls - 52

No. of accident investigations - 2

No. of special investigations - 23

C. Reporting of Pipeline Accidents1) NATURAL GAS

Accidents on intrastate gas systems involving \$5,000 property damage, a fatality or injuries, gas ignition, or that are judged significant must be reported by telephone within two hours, and the written report filed within thirty (30) days. Call the 24-hour emergency phone number (512)463-6788 to report an accident. For your convenience this priority phone line is used only to report emergencies.

2) HAZARDOUS LIQUIDS

Accidents on intrastate hazardous liquid pipelines reportable under 49 CFR Sections 195.50 and 195.52 and 16 TAC Section 7.84(a) must be reported by telephone within two hours and the required written report filed within thirty (30) days. Call the 24-hour emergency phone number (512)463-6788 to report an accident. For your convenience this priority phone line is used only to report emergencies.

Rules and Regulations:

[Federal Register: August 12, 2002 (Volume 67, Number 155)]

[Notices]

[Page 52517-52518]

From the Federal Register Online via GPO Access [wais.access.gpo.gov]

[DOCID:fr12au02-123]

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket Number: RSPA-4957]

Pipeline Safety Reports of Abandoned Underwater Pipelines

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice and request for public comments and OMB approval.

SUMMARY: This notice requests public participation in the Office of Management and Budget (OMB) approval process regarding the renewal of an existing RSPA/Office of Pipeline Safety (OPS) collection of information for Pipeline Safety Reports of Abandoned Underwater Pipelines. Specifically, public comment is requested to minimize the burden of this collection of information on the public, along with other factors listed in the body of this notice. RSPA/OPS published a notice requesting public comment on May 20, 2002 (67 FR 35618). No comments were received. RSPA/OPS is offering the public another opportunity to comment on this information collection. It is also requesting OMB approval for the renewal of this information collection under the Paperwork Reduction Act of 1995 and 5 CFR part 1320.

DATES: Comments on this notice must be received within 30 days of the publication date of this notice to be assured of consideration.

ADDRESSES: Interested persons are invited to send comments directly to OMB, Office of Information and Regulatory Affairs, 726 Jackson Place, Washington, DC 2003 ATTN: Desk Officer for the Department of Transportation. Comments can be reviewed at the Department of Transportation Dockets Facility, Plaza

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401, 400 Seventh Street SW., Washington, DC which is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays, when the facility is closed. Comments must identify docket number of this notice. Persons should submit the original documents and one (1) copy. Persons wishing to receive confirmation of receipt of their comments must include a stamped, self-addressed postcard. Please identify the docket and notice numbers shown in the heading of this notice. Documents pertaining to this notice can be viewed in this docket. The docket can also be viewed electronically at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, (202) 366-6205, to ask questions about this notice; or write by e-mail to marvin.fell@rspa.dot.gov.

SUPPLEMENTARY INFORMATION: Title: Pipeline Safety Reports of Abandoned Underwater Pipelines.

Type of Request: Renewal of existing information collection.

Abstract: Underwater pipelines are being abandoned at an increasing rate as older facilities reach the end of their useful life. This trend is expected to continue. In 1992, Congress responded to this issue by amending the Pipeline Safety Act (49 U.S.C. 60108(c)(6)(B)) to direct the Secretary of Transportation to require operators of an offshore pipeline facility or a pipeline crossing navigable waters to report the

abandonment to the Secretary of Transportation in a way that specifies whether the facility has been abandoned properly according to applicable Federal and State requirements. RSPA's/OPS's regulations for abandonment reporting can be found at Title 49 CFR 192.727 and 195.402.

Respondents: Gas and hazardous liquid pipeline operators.

Estimated Number of Respondents: 400.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,400 hours.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC, on August 7, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 02-20368 Filed 8-9-02; 8:45 am]

BILLING CODE 4910-60-P

3. AUDIT SECTION**A. Maintains headquarters and three district offices as follows:**

Headquarters - William B. Travis Building

1701 North Congress, P. O. Box 12967, Austin, Texas 78701

Ed Abrahamson, Assistant Director

Telephone (512) 463-7022

Dallas District- 1546 Rowlett Rd., Suite 107, Garland, Texas 75043

Telephone (972) 240-5757;

Fax (972) 303-1897

Stephen Cooper, Auditor

Josh Settle, Auditor

Austin District- P. O. Box 12967, Austin, Texas 78711-2967

Telephone (512) 463-7022

Houston District- 1706 Seamist Drive, Suite 501, Houston, Texas 77008-3135

Telephone (713) 869-8425;

Fax (713) 869-3219

Mark Brock, Supervising Auditor

Dale Francis, Auditor

Margie Stoney, Auditor

Konata Uzoma, Auditor

Lekisha Churchwell, Auditor

Larry Alcorn, Auditor

B. Gas Utility Tax, Annual Reports and Audit Reports

Questions relating to gas utility tax, annual reports and audit reports, call Shannon L. Miller at (512) 463-7022.

C. Available Information

Copies of company annual reports (1994 to present), as well as information relating to any of the above, A through C, are available for review at the William B. Travis Building, Gas Services Division, 9th Floor, 1701 North Congress. All requests for copies must be made in writing and should be addressed to the Audit Section. Copies will be provided for a fee, depending on the volume of copy work desired, allow a minimum of five days for completion of requests. Inquiries regarding copies should be directed to the Audit Section at (512) 463-7022, or Fax your request to (512) 475-3180.

4. REGULATORY ANALYSIS AND POLICY**A. Maintains the following office to assist you:**

Headquarters - William B. Travis Building

1701 North Congress, P.O. Box 12967, Austin, Texas 78711

Karl Nalepa, Assistant Director

Telephone (512) 463-7164

B. Gas Utilities Information BulletinPublished on the Commission's web site at: <http://www.rrc.state.tx.us/divisions/gs/rap/rapbls.html>.**C. Proposals For Decision**Published on the Commission's web site at: <http://www.rrc.state.tx.us/divisions/gs/rap/pfds.html>.**D. Tariff Filings**

Questions pertaining to the filing of tariffs and/or quality of service rules should be directed to Kathy Arroyo, Yolanda Lovelace or Sandra Soto at (512) 463-7164.

E. Curtailments

Curtailment questions should be referred to Sandra Soto at (512) 463-7164. Curtailment reports made Monday through Friday, 8:00 a.m. to 5:00 p.m., should be made to (512) 463-7164. Curtailment reports made during hours other than those specified above and holidays, should be made to (512) 463-6788, (512) 896-3863 (digital pager), (512) 892-1772 or (512) 280-5949.

F. Compliance Filings

Questions regarding gas utilities docket compliance filing requirements should be referred to Jackie Standard at (512) 463-7164.

G. Complaints and Inquiries

All complaints and inquiries relating to the gas utility industry should be directed to the Regulatory Analysis and Policy section at (512) 463-7164.

H. Rules and Regulations:

GUD No. 9221 Amendments to Quality of Service Rules

GUD No. 9253 New Rule for Relocation Cost Recovery Factor

GUD No. 9257 Amendments to §7.450 Gas Distribution in Mobile Home Parks, Apartment Houses and Apartment Units.

GUD No. 9275 Amendments to §7.512 NGPA Section 311 Rate Review

GUD No. 9276 Amendments to §7.511 TUC Section 102.054 Sale, Transfer, Merger Reviews

GUD No. 9277 Amendments to §7.305 Curtailment Rule

GUD No. 9303 Amendments to §7.465 Abandonment Rule

GUD No. 9334 Amendments to §7.310 System of Accounts

5. HEARINGS AND LEGAL ANALYSIS**A. Miscellaneous**

Anyone wishing to obtain copies of appendices to Orders appearing in Section 5 of this Bulletin should contact the Legal Division at (512) 463-7017.

B. Status of Pending Cases

The status of all pending cases listed in Section 3 of this Bulletin is for informational purposes only and is complete up to the time of printing of this Bulletin. For a more accurate status of pending cases, please call the Legal Division at (512) 463-7017.